

1 MICHAEL P. STONE, SBN 91142  
2 MUNA BUSAILAH, SBN 166328  
3 Email: [m.busailah@police-defense.com](mailto:m.busailah@police-defense.com)  
4 Members of **STONE BUSAILAH, LLP**  
5 *A Partnership of Professional Law Corporations*  
6 Email: [d.danial@police-defense.com](mailto:d.danial@police-defense.com)  
7 1055 East Colorado Boulevard, Suite 320  
8 Pasadena, California 91106  
9 Telephone: (626) 683-5600  
10 Facsimile: (626) 683-5656

11 *Attorneys for Defendants JOSE ZAVALA and*  
12 **JULIO QUINTANILLA**

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 MARGARITO T. LOPEZ, SONIA  
16 TORRES, KENI LOPEZ, ROSY  
17 LOPEZ,  
18 Plaintiffs,

19 v.  
20  
21 CITY OF LOS ANGELES, JOSE  
22 ZAVALA, JULIO QUINTANILLA,  
23 AND DOES 1 THROUGH 10,  
24 INCLUSIVE,  
25 Defendants.

16 **CASE NO. 2:22-cv-07534-FLA-MAAx**

17 *[Assigned to Judge Fernando L. Aenlle-Rocha,  
18 USDC-Hon. Mag. Maria A. Audero, USDC-  
19 Roybal Bldg]*

20 **DEFENDANTS' OPPOSITION TO  
21 PLAINTIFFS' NOTICE OF MOTION  
22 AND MOTION IN LIMINE NO. 4 TO  
23 PRECLUDE DEFENDANTS FROM  
24 ELICITING EXPERT TESTIMONY IN  
25 THE AREA OF POLICE PRACTICES  
26 AND PROCEDURES AND USE OF  
27 FORCE FROM ANY WITNESS,  
28 INCLUDING JAMES BORDEN, FOR  
FAILURE TO COMPLY WITH RULE  
26**

29 FPTC: May 31, 2024  
30 TIME: 1:00 PM  
31 DEPT: 6B, 6<sup>th</sup> Floor

32 PLEASE TAKE NOTICE THAT Defendants OFFICERS JOSE ZAVALA  
33 AND JULIO QUINTANILLA (collectively "Defendant-Officers"), will and hereby  
34 do request Plaintiffs' motion to preclude Defendants from eliciting testimony

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A Partnership of Professional Law Corporations  
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Pasadena, California 91106

1 regarding police practices and procedures and use of force be denied. Plaintiffs'  
2 motion is far-reaching and improper. Plaintiffs are correct that the Defendant-  
3 Officers do not intend on calling James Borden at the trial in this matter. However,  
4 Plaintiffs' requested exclusion of eliciting *any and all* testimony on use of force or  
5 standard police practices is an overreach of the exclusionary provisions of Fed. R.  
6 Civ. P. 37(c)(1).

7 Fed. R. Civ. P. 37(c)(1) provides in part that:

8 If a party fails to provide information or identify a witness as  
9 required by Rule 26(a) or (e), the party is not allowed *to use*  
10 *that information or witness* to supply evidence on a motion, at a  
11 hearing, or at a trial, unless the failure was substantially  
12 justified or is harmless.

13 (Emphasis added.). The Defendant-Officers have already agreed, however,  
14 not to elicit any information or witness testimony from James Borden. That the  
15 Defendant-Officers have made this concession is made clear from the parties'  
16 stipulation. *See* Dkt. #66.

17 Plaintiffs' citation to *Yeti by Molly, Ltd. v. Deckers Outdoor Corp.* 259 F.3d  
18 1101 (9th Cir. 2001) does nothing to support the overbroad request they seek. The  
19 Ninth Circuit in *Yeti by Molly* affirmed the district court's exclusion of the  
20 defendant's expert after the defendant failed to provide the expert's report pursuant  
21 to the disclosure requirements of Fed. R. Civ. P. 26(a)(2). Again, the Defendant-  
22

1 Officers already stipulated to the exclusion of James Borden from the trial in this  
2 matter. Dkt. #66. *Yeti by Molly* does not stand for the proposition however, that *all*  
3 evidence on a matter must be excluded.  
4

5 Nonetheless, the Defendant-Officers will not be seeking to introduce expert  
6 testimony on the issue of police practices. But the Defendant-Officers and third-  
7 party officer witnesses must be permitted to testify regarding general police  
8 responses and practices, including tactics, procedures, options, and more. Such  
9 testimony is probative and necessary to the jury's determination of whether the  
10 Defendant-Officers' actions were reasonable based on the totality of the  
11 circumstances. Indeed, because the *Graham* inquiry necessarily *requires* a  
12 determination from the perspective of a reasonable police officer, the jury must be  
13 able to understand law-enforcement procedures, tactics, methods, and more, in  
14 determining the reasonableness of the Defendant-Officers' actions. To prevent  
15 Defendant-Officers from eliciting any and all testimony and information of the  
16 same would be to sanction a miscarriage of justice and would result in a  
17 fundamentally unfair trial to the defense. This Court should therefore deny  
18 Plaintiffs' motion.  
19

20 Date: May 16, 2024

**STONE BUSAILAH, LLP**

21 By: */s/ Muna Busailah*

22 MUNA BUSAILAH, Esq.

23 Attorney for Defendants JOSE ZAVALA,  
24 JULIO QUINTANILLA